IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 1617 of 1999
In
SPECIAL CIVIL APPLICATION No. 514 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE M.C.PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHAILESHKUMAR M SHAH - Appellant(s)

Versus

AHMEDABAD MUNICIPAL CORPORATION - Defendant(s)

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Appearance :
MR HARDIK B SHAH for MR KS ACHARYA for Appellant(s) : 1,
MR MG NAGARKAR for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE B.J.SHETHNA
and
HONOURABLE MR.JUSTICE M.C.PATEL

Date : 16/09/2005

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE B.J.SHETHNA)

Heard learned counsel Mr.Hardik B. Shah for Mr.Acharya for the appellant and Mr.Nagarkar for the respondent.

The appellant-workman challenged in this appeal the judgment and order dated 15.10.1999 passed by the learned Single Judge of this court (S.K.Keshote, J.) in Special Civil Application No.514 of 1991 whereby the learned Single Judge partly allowed the writ petition filed by the respondent-Corporation and modified the award passed by the Labour Court of full back wages by reducing it to Rs.5,000/- or 50% back wages. Though the petition filed by the respondent-Corporation was labelled as a petition under Article 226 of the Constitution of India, the learned Single Judge treated and specifically stated so in his order that it was a petition under Article 227 of the Constitution of India and in exercise of his supervisory jurisdiction under Article 227 of the Constitution of India he has partly allowed the petition.

Law on this point is very well settled by two Division Benches of this court in cases of (i) ***TALUKA DEVELOPMENT OFFICER, PATAN & ANR. vs. SADAJI KUVARJI THAKORE reported in 2004(1) GLR 502*** and (ii) ***ISHWARBHAI NAROTTAMBHAI PATEL vs. K.H.TRIVEDI reported in 2003(3)***

GLR 1878. Once, the learned Single Judge has exercised his power under Article 227 of the Constitution of India, then appeal against the same would not be maintainable before this court. Hence, without going into any other question, this appeal is dismissed only on the point of its maintainability. No order as to costs.

(B.J.SHETHNA, J.)

(M.C.PATEL, J.)

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